



Paper No. 24

JOHN H SHERMAN
LEGAL DEPARTMENT
INTERMEC TECHNOLOGIES CORPORATION
550 2ND STREET S E
CEDAR RAPIDS IA 52401

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OFFICE OF PETITIONS

In re Application of :
Heinrich, et al. :
Application No.: 09/382,382 :
Filed: August 24, 1999 :
Attorney Docket No.: YO995-218 :
For: RADIO FREQUENCY IDENTIFICATION :
SYSTEM WRITE BROADCAST CAPABILITY :

ON PETITION

This decision is in response to the petition under 37 CFR 1.181 to withdraw the holding of abandonment. In the alternative, petitioners request revival under 37 CFR 1.137(b). Both petitions were filed in the same paper on February 20, 2004. In addition, the decision will address the outstanding declaration issue in this application. To that end, the instant petitions will be treated as a constructive reconsideration petition under 37 CFR 1.183 to waive 37 CFR 1.67.

On July 1, 2003, the Office mailed a Notice of Allowance and Fee(s) Due requiring petitioners to submit required fees within three (3) months of the Notice's mail date. A review of Office financial records for this application reveals that the issue fee and publication fees have not been paid. In previous correspondence, petitioner stated that a RCE would be filed in response to the July 1, 2003 Notice. The Office has no record of receiving a RCE prior to the October 1, 2003 deadline for response to the July 1, 2003 Notice. Therefore, this application was held abandoned as of October 2, 2003. The filing of the instant petitions precedes the mailing of a Notice of Abandonment.

Petitioners assert that an RCE and IDS submission were timely transmitted via facsimile to and received by the Office on September 29, 2003. The Office has no record of receiving these items. However, the copy of the aforementioned filing submitted with the instant petition contains a proper certificate of facsimile transmission citing a September 29, 2003 date of deposit.

Under 37 CFR 1.8(b), correspondence is considered timely filed if petitioner: supplies (1) a copy of the previously transmitted correspondence with a signed certificate of transmission affixed thereto (2) a statement which attests on a personal knowledge basis to the previous timely transmission. A copy of the sending unit's report confirming transmission may be used to support this statement. Furthermore, under 37 CFR 1.8(c), the Office may require additional evidence to determine if the correspondence was timely filed.

Petitioners have supplied persuasive evidence of facsimile transmission of the RCE and IDS submission on September 29, 2003.

The petition under 37 CFR 1.181 is **GRANTED** and the holding of abandonment is withdrawn.

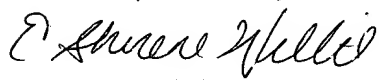
The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

On October 21, 2003 petitioners submitted a declaration executed by the previously non-signing inventor, Christian Lenz. Therefore, all joint inventors have signed the supplemental declaration. The petition under 37 CFR 1.183 to waive 37 CFR 1.67 is **DISMISSED AS MOOT**.

No additional petition fees have been charged in connection with these matters.

After the mailing of this decision, the application file will be forwarded to Technology Center 2600's technical support staff for entry of the RCE and IDS submission, filed September 29, 2003, and charging of related fees.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions